IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE SIDE

CRIMINAL REVISION APPLICATION NO.84 OF 2006

Yamin Choudhary .. Applicant

V/s.

M/s.Mansarovar Paper

& Industries Ltd. & Ors. .. Respondent.

Shri.H.S.Anand for the applicant.

Shri.M.S.Mhambre, A.P.P. for the State.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 8TH DECEMBER, 2006.

P.C.:

1. Heard Shri.Anand, learned counsel appearing for the applicant. This application challenges the order dated 7th January, 2006 passed by the 12th Metropolitan Magistrate, Bandra in C.C.No.631/S/2002, 907/S/2002 & 909/S/2002.

2. The complainant contended during the course of the

trial that plea has been recorded of all accused in this case except accused No.1, which is a public limited company. The accused whose plea has been recorded are the directors of the company and personally involved in the business of the accused No.1. Company. They are responsible for the affairs of the company. Therefore, their plea be recorded with regard to the offences alleged against the accused No.1 company which are punishable u/s.138 read with Section 141 of the Negotiable Instruments Act. This application was made on 24th November, 2005. It was pointed out that the accused No.1 Company is a sick industrial company. Its management is vested with the Operating Agency appointed by B.I.F.R. It was denied that the accused Nos.3,4 & 5 are Managing Directors or Directors of the company and are responsible for day to day activities of the company. The learned Trial Judge rejected this application by observing that the version of both sides with regard to the accused Nos.3 to 5 being responsible for day-to-day affairs of the accused No.1 company, requires determination on merits at a proper stage. The accused Nos.3 to 5 cannot be compelled to represent accused No.1-Company at the trial without causing prejudice to their defence.

3. In my view, the observations at Para 8 of the order of the Metropolitan Magistrate would not cause any prejudice to the applicant-original complainant because the matter is being tried. It is always open for the Trial Court after the evidence is led to pass such orders on the complainant, as are permissible in law. All such plea as are raised by the complainant and the accused are available for being urged at the stage of Arguments. The learned Metropolitan Magistrate would consider the aspect of the accused Nos.3 to 5 being involved with the affairs of the accused No.1-Company and merely because the application of the complainant is rejected shall not mean that the complainant is precluded from raising all contentions at that stage.

4. Revision application is against an interlocutory order and therefore dismissed with the above clarification.

(S.C.Dharmadhikari, J.)